

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

JEROME PEEK,)	
)	
Plaintiff,)	
)	
vs.)	Case No. CIV-16-1404-M
)	
JOE ALLBAUGH, et al.,)	
)	
Defendants.)	

ORDER

On June 12, 2017, United States Magistrate Judge Bernard M. Jones issued a Report and Recommendation in this action brought pursuant to 42 U.S.C. § 1983, alleging violations of plaintiff's constitutional rights. The Magistrate Judge recommended that defendants Hector A. Rios, Jr., The GEO Group, Inc. ("GEO"), Joshua Gibson, and Robert Campbell's ("LCF Defendants") Motion to Dismiss/Motion for Summary Judgment should be granted. Specifically, the Magistrate Judge recommended that summary judgment should be entered in favor of defendants Gibson and Campbell and that the claims against defendant Rios and GEO should be dismissed with prejudice as plaintiff has failed to state a claim upon which relief may be granted against these defendants and allowing plaintiff to amend his complaint would be futile. Finally, the Magistrate Judge recommended that the claims against defendants Dan Ronay, Ms. Shurfer, and Mars Gonzago should be dismissed without prejudice as plaintiff failed to serve these defendants within the time allotted by Federal Rule of Civil Procedure 4(m). The parties were advised of their right to object to the Report and Recommendation by July 3, 2017. Plaintiff has filed his Objection to Magistrate Judge's Order and Motion to Reconsider District Court's Order Striking Proposed Amended Complaint. Defendants have filed a response to plaintiff's objection and motion to reconsider.

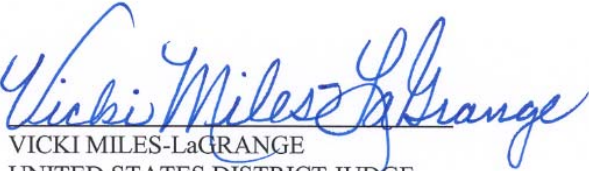
Having carefully reviewed this matter de novo, the Court finds that the Magistrate Judge's Report and Recommendation should be adopted. Additionally, the Court finds that plaintiff's motion to reconsider should be denied. Specifically, "[g]rounds warranting a motion to reconsider include (1) an intervening change in the controlling law, (2) new evidence previously unavailable, and (3) the need to correct error or prevent manifest injustice." *Servants of the Paraclete v. John Does I-XVI*, 204 F.3d 1005, 1012 (10th Cir. 2000). A motion to reconsider is appropriate "where the court has misapprehended the facts, a party's position, or the controlling law" but is not appropriate "to revisit issues already addressed or advance arguments that could have been raised in prior briefing." *Id.* Having carefully reviewed plaintiff's motion, the Court finds no grounds warranting reconsideration in the case at bar. Particularly, the Court finds no intervening change in the controlling law, no new evidence previously unavailable, and no need to correct clear error or prevent manifest injustice. The Court further finds it did not misapprehend the facts, it did not misapprehend plaintiff's position, and it did not misapprehend the controlling law.

Accordingly, the Court:

- (1) DENIES plaintiff's Motion to Reconsider District Court's Order Striking Proposed Amended Complaint [docket no. 46];
- (2) ADOPTS the Report and Recommendation [docket no. 28] issued by the Magistrate Judge on June 12, 2017;
- (3) GRANTS the LCF Defendants' Motion to Dismiss/Motion for Summary Judgment [docket no. 22] as follows:
 - (a) the Court GRANTS summary judgment in favor of defendants Gibson and Campbell, and
 - (b) the Court DISMISSES the claims against defendants Rios and GEO with prejudice as plaintiff has failed to state a claim upon which relief may be granted against these defendants; and

- (4) DISMISSES the claims against defendants Ronay, Shurfer, and Gonzago without prejudice based upon plaintiff's failure to serve these defendants.

IT IS SO ORDERED this 22nd day of January, 2018.


VICKI MILES-LaGRANGE
UNITED STATES DISTRICT JUDGE